SENATE JOURNAL

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SECOND REGULAR SESSION SIXTIETH LEGISLATURE

TWENTY-SIXTH LEGISLATIVE DAY FRIDAY, FEBRUARY 5, 2010

Senate Chamber

President Little called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Davis, absent and formally excused by the Chair.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Jenna Johnson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 4, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 5, 2010

The JUDICIARY AND RULES Committee reports that <u>8 1312</u>, <u>8 1313</u>, <u>8 1314</u>, and <u>8 1315</u> have been correctly printed.

DARRINGTON, Chairman

§ 1312 was referred to the Judiciary and Rules Committee.

§ 1313, § 1314, and § 1315 were referred to the Health and Welfare Committee.

February 4, 2010

The JUDICIARY AND RULES Committee reports that <u>S 1268</u> has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled <u>S 1268</u> and ordered it transmitted to the House for the signature of the Speaker.

February 4, 2010

The FINANCE Committee reports out <u>H 439</u>, <u>H 440</u>, and H 441 with the recommendation that they do pass.

CAMERON, Chairman

H 439, H 440, and H 441 were filed for second reading.

February 4, 2010

The HEALTH AND WELFARE Committee reports out **S** 1301 with the recommendation that it do pass.

LODGE, Chairman

S 1301 was filed for second reading.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

January 14, 2010

The Honorable Brad Little President of the Senate Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Nick Hallett of Rupert, Idaho, was appointed as a member of the Public Charter School Commission to serve a term commencing January 5, 2010, and expiring May 12, 2010.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua* /s/ C. L. "Butch" Otter Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Education Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 4, 2010

Dear Mr. President:

I transmit herewith $\underline{\text{H 390}}$ and $\underline{\text{H 423}}$, which have passed the House.

ALEXANDER, Chief Clerk

H 390 and H 423 were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced that the Judiciary and Rules Committee report relative to the Board of Commissioners of the Idaho State Bar appointment of Steven A. Tuft was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Darrington, seconded by Senator Kelly, the Gubernatorial appointment of Steven A. Tuft as a member of the Idaho Judicial Council was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Board of Commissioners of the Idaho State Bar appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Idaho State Bar informing them of the action of the Senate. The President announced that the Judiciary and Rules Committee report relative to the Gubernatorial appointment of Gary O. Horton was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Mortimer, seconded by Senator Kelly, the Gubernatorial appointment of Gary O. Horton as a member of the Sexual Offender Classification Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the State Affairs Committee report relative to the Gubernatorial appointment of Joe B. McNeal was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Corder, seconded by Senator Kelly, the Gubernatorial appointment of Joe B. McNeal as a member of the Idaho Commission on Human Rights was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the State Affairs Committee report relative to the Gubernatorial appointment of Susan K. Simmons was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Kelly, seconded by Senator Fulcher, the Gubernatorial appointment of Susan K. Simmons as a member of the Idaho Endowment Fund Investment Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Local Government and Taxation Committee report relative to the Gubernatorial appointment of Lyle R. Cobbs was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Jorgenson, seconded by Senator Kelly, the Gubernatorial appointment of Lyle R. Cobbs as a member of the Board of Tax Appeals was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1316 BY AGRICULTURAL AFFAIRS COMMITTEE AN ACT

RELATING TO ANIMALS; AMENDING SECTION 25-3514, IDAHO CODE, TO PROVIDE THAT SPECIFIED LAW SHALL NOT BE CONSTRUED AS INTERFERING WITH OR ALLOWING INTERFERENCE WITH THE HUMANE SLAUGHTER OF EQUINES AND TO CLARIFY PROVISIONS RELATING TO NORMAL AND ACCEPTED PRACTICES OF ANIMAL IDENTIFICATION AND HUSBANDRY.

S 1317 BY AGRICULTURAL AFFAIRS COMMITTEE AN ACT

RELATING TO CRUELTY TO ANIMALS; AMENDING SECTION 25-3501A, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO THE ENFORCEMENT OF SPECIFIED LAW; AMENDING SECTION 25-3502, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3502A, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE DEPARTMENT OF AGRICULTURE SHALL DEVELOP AND MAINTAIN A LIST OF CERTAIN PUBLIC AND PRIVATE ANIMAL SHELTERS; AMENDING SECTION 25-3504, IDAHO CODE, TO REVISE VIOLATION PROVISIONS RELATING TO CRUELTY, TO PROVIDE FOR VIOLATIONS AND PENALTIES REGARDING TORTURE AND TO PROVIDE THAT OFFICERS MAY TAKE POSSESSION OF ANIMALS SUBJECT TO TORTURE; AMENDING SECTION 25-3505, IDAHO CODE, TO REVISE VIOLATION PROVISIONS RELATING TO CERTAIN CRUELTY; REPEALING SECTION 25-3506, IDAHO CODE, RELATING TO EXHIBITION OF COCKFIGHTS; AMENDING SECTION 25-3507, IDAHO CODE, TO PROVIDE FOR VIOLATIONS AND PENALTIES RELATING TO ANIMAL FIGHTS AND TO PROVIDE AN EXCEPTION RELATING TO THE CUSTOMARY AND LEGAL PRACTICE OF BREEDING AND REARING OF GAME FOWL; AMENDING SECTION 25-3509, IDAHO CODE, TO DELETE A SUPERFLUOUS REFERENCE; REPEALING SECTION 25-3510, IDAHO CODE, RELATING TO IMPOUNDING WITHOUT FOOD OR WATER; AMENDING SECTION 25-3511, IDAHO CODE, TO REVISE VIOLATION PROVISIONS RELATING TO THOSE THAT PERMIT ANIMALS TO GO WITHOUT CARE; AMENDING SECTION 25-3512, IDAHO CODE, TO REVISE TIME LIMIT PROVISIONS RELATING TO THE ABANDONMENT OF ANIMALS LEFT WITH VETERINARIANS; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3512A, IDAHO CODE, TO PROVIDE FOR VIOLATIONS AND PENALTIES RELATING TO ABANDONMENT; AMENDING SECTION 25-3513, IDAHO CODE, TO REVISE VIOLATION AND PENALTY PROVISIONS; AMENDING SECTION 25-3514, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO NORMAL AND ACCEPTED PRACTICES OF ANIMAL IDENTIFICATION AND ANIMAL HUSBANDRY; REPEALING SECTION 25-3516, IDAHO CODE, RELATING TO HIGH-ALTITUDE DECOMPRESSION CHAMBERS; REPEALING SECTION 25-3518, IDAHO CODE, RELATING TO BEATING AND HARASSING ANIMALS; REPEALING SECTION

25-3520A, IDAHO CODE, RELATING TO PENALTIES FOR VIOLATIONS AND THE TERMINATION OF CERTAIN RIGHTS; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3520A, IDAHO CODE, TO PROVIDE PENALTY PROVISIONS, TO PROVIDE FOR THE REMITTANCE OF CERTAIN COLLECTED FINES AND TO PROVIDE FOR THE TERMINATION OF CERTAIN RIGHTS: AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3521, IDAHO CODE, TO PROVIDE FOR CONDUCT THAT IS NOT PROHIBITED; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3522, IDAHO CODE, TO PROVIDE FOR THOSE THAT GIVE FALSE INFORMATION IN ALLEGED VIOLATIONS; AMENDING REPORTING SECTION 25-3521, IDAHO CODE, TO REDESIGNATE THE SECTION; AND PROVIDING AN EFFECTIVE DATE.

S 1318 BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

RELATING TO SINGLE COUNTYWIDE HIGHWAY DISTRICTS; AMENDING SECTION 40-1416, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR A VEHICLE REGISTRATION FEE RESOLUTION, TO PROVIDE FOR REVIEW OF A VEHICLE REGISTRATION FEE RESOLUTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-1416, IDAHO CODE, AS AMENDED BY SECTION 79, CHAPTER 341, LAWS OF 2009, TO PROVIDE ADDITIONAL REQUIREMENTS FOR A VEHICLE REGISTRATION FEE RESOLUTION AND TO PROVIDE FOR REVIEW OF A VEHICLE REGISTRATION FEE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

S 1319 BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

RELATING TO AMBULANCE DISTRICTS; AMENDING SECTION 31-3908, IDAHO CODE, TO CLARIFY A SPECIAL TAX LEVY FOR CERTAIN AMBULANCE DISTRICTS.

S 1320 BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AMENDING SECTION 54-1761, IDAHO CODE, TO REMOVE A DEFINITION, TO FURTHER DEFINE A TERM AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1762, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AND AMENDING SECTION 54-1763, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD OF PHARMACY'S DUTIES AND POWERS.

S 1321 BY HEALTH AND WELFARE COMMITTEE AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING CHAPTER 8, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-819, IDAHO CODE, TO PROVIDE REQUIREMENTS REGARDING A REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND TO PROVIDE FOR RULEMAKING; AMENDING CHAPTER 2, TITLE 56,

IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-225, IDAHO CODE, TO PROVIDE FOR A REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE OF REAL PROPERTY AND TO PROVIDE FOR RULEMAKING.

S 1322 BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-2-616, IDAHO CODE, TO REVISE A PRESUMPTION ON A DEVISE OR BEQUEST TO CERTAIN PERSONS, TO PROVIDE FOR RESTRICTIONS ON INTER VIVOS GIFTS TO CERTAIN INDIVIDUALS AND TO DEFINE TERMS.

S 1323 BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2013, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO ERRORS AND OMISSIONS INSURANCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2018, IDAHO CODE, TO PROVIDE THAT A LICENSED SALESPERSON WHO OBTAINS A BROKER LICENSE SHALL RETAIN THE RENEWAL PERIOD AND EXPIRATION DATE OF HIS SALESPERSON LICENSE; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE CONTINUING EDUCATION REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-2055, IDAHO CODE, TO REQUIRE THAT A LICENSEE MAKE A CERTAIN DISCLOSURE WITHIN A SPECIFIED AMOUNT OF TIME.

S 1324 BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO STATE GOVERNMENT AND STATE AFFAIRS; AMENDING SECTION 67-2310, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN LICENSURE REQUIREMENTS FOR SUBCONTRACTORS NAMED ON CERTAIN BIDS AND TO MAKE A TECHNICAL CORRECTION.

S 1325 BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE INTERNATIONAL FIRE CODE; AMENDING SECTION 41-253, IDAHO CODE, TO PROVIDE AN EXEMPTION, TO PROVIDE THAT COUNTIES MAY EXPAND THE EXEMPTION AND TO PROVIDE FOR NOTICE AND HEARING.

S 1326 BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING SECTION 41-1940, IDAHO CODE, TO PROVIDE THAT AN ANNUITY SOLD TO CERTAIN PERSONS MAY NOT IMPOSE A SURRENDER CHARGE OR OTHER WITHDRAWAL PENALTY AFTER A SPECIFIED TIME.

S 1327 BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1941, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE DISCLOSURE REQUIREMENTS FOR ANNUITY SALES TO CONSUMERS, TO PROVIDE EXCEPTIONS, TO PROVIDE REPORTING REQUIREMENTS, TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE WITH RULEMAKING AUTHORITY AND TO SPECIFY THAT A PRIVATE RIGHT OF ACTION IS NOT CREATED OR IMPLIED.

<u>§ 1316, § 1317, § 1318, § 1319, § 1320, § 1321, § 1322, § 1323, § 1324, § 1325, § 1326, and § 1327</u> were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

<u>H 390</u>, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

<u>H</u> 423, by Judiciary, Rules, and Administration Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

<u>S 1307</u>, by Finance Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

<u>S 1254</u> was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bock arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared <u>S 1254</u> passed, title was approved, and the bill ordered transmitted to the House.

§ 1255 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKague arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague,

McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared S 1255 passed, title was approved, and the bill ordered transmitted to the House.

§ 1256 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared S 1256 passed, title was approved, and the bill ordered transmitted to the House.

<u>S 1257</u> was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared <u>S 1257</u> passed, title was approved, and the bill ordered transmitted to the House.

<u>H 406</u> was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared <u>H</u> 406 passed, title was approved, and the bill ordered returned to the House.

<u>§ 1292</u> was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Siddoway arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared <u>S 1292</u> passed, title was approved, and the bill ordered transmitted to the House.

<u>S 1293</u> was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES-Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS-None.

Absent and excused-Davis. Total - 1.

Total - 35.

Whereupon the President declared <u>S 1293</u> passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Stegner, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:10 p.m. until the hour of 11:30 a.m., Monday, February 8, 2010.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary